IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 19772 of 2006(D)

PETITIONERS:
----

1. **P.A.VARKEY, AGED 66 YEARS,**
   S/O.IYPE, PALAKKUZHIYIL HOUSE,
   SOUTH MARADY.P.O, MOOVATTUPUZHA.

2. **BABY JOSEPH, AGED 42 YEARS,**
   S/O.N.J.JOSEPH, MADATHIKUDIHYIL HOUSE,
   ARAKUZHA.P.O, MOOVATTUPUZHA.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENTS:
----

1. **THE DISTRICT COLLECTOR,**
   ERNAKULAM.

2. **THE BLOCK DEVELOPMENT OFFICER,**
   MOOVATTUPUZHA.

3. **THE ASSISTANT EXECUTIVE ENGINEER,**
   DISTRICT RURAL DEVELOPMENT AGENCY,
   KAKKANAD, ERNAKULAM.

4. **STATE OF KERALA,**
   REP. BY THE SECRETARY TO GOVERNMENT,
   DEPARTMENT OF REVENUE,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. K.I. MOHAMMED ANSAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE AGREEMENT EXECUTED BY THE 1ST PETITIONER WITH THE 2ND RESPONDENT DTD. 12/07/2004.

EXT.P2; COPY OF THE AGREEMENT EXECUTED BY THE 1ST PETITIONER WITH THE 2ND RESPONDENT DTD. 25/08/2005.

EXT.P3: COPY OF THE BILL SUBMITTED BY THE 1ST PETITIONER DTD.NIL.

EXT.P4: COPY OF THE BILL SUBMITTED BY THE 2ND PETITIONER DTD. NIL.

2ND RESPONDENT'S EXHIBITS:

EXT.R2(A): COPY OF THE LETTER BY THE 1ST PETITIONER DTD. 3/03/06.]

EXT.R2(B): COPY OF THE LETTER NO.C/935/04 DTD. 16/03/06 OF BDO MUVATTUPUZHA REQUESTING ALLOTMENT.

EXT.R2(C): COPY OF THE LETTER NO.C/3345/04 DTD. 25/03/06 OF BDO MUVATTUPUZHA REQUESTING ALLOTMENT.

/TRUE COPY/

Kss

PIUS C. KURIAKOSE, J.

W.P.(C) No.19772 OF 2006

Dated this the 5th day of February, 2007

JUDGMENT

This Writ Petition is filed by the petitioners who are conveners of the beneficial committee formed for execution of works under the Natural Calamities Flood Works.

2. A statement has been filed by the 2nd respondent-Block Development Officer wherein it is contended that the delay in payment of the works is not due to the inaction from the 2nd respondent's office but is due to the inaction of the 1st petitioner in submitting the necessary papers to the 2nd respondent after obtaining the same from the 3rd respondent and that if any payment is made to the 1st petitioner, it will amount to payment out of seniority which will tantamount to violating the judgment of this Court in **State of Kerala v. Anil** (2002 (1) KLT 371).

3. In fact the above contention was considered by me on 31.08.06 and I directed that the amounts covered by Ext.P3 shall be paid to the 1st petitioner within three months of the petitioner producing a copy of the order. I am not impressed by the submissions of Mr.K.J.Mohammed Anzar, Learned Government Pleader that the interim order dt.31.08.06 was passed by me on the basis of some wrong presumptions and the said order was not warranted. Rather I am inclined to accept the

submissions of the learned counsel for the petitioners. The Writ Petition will stand disposed of with the following directions:

The respondents are directed to pay all the amounts covered by Ext.P3 to the 1st petitioner within six weeks of receiving a copy of this judgment. As regards the 2nd petitioner also the amounts in Ext.P4 bill be paid to him. But in his case, the direction will be only that payments under Ext.P4 be made to the 2nd petitioner as and when his turn comes according to the seniority list maintained by the 1st respondent-District Collector.

PIUS C. KURIAKOSE, JUDGE

btt